THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No.13569 of 2007

DATE:30.11.2007.

Between:

M/s.Sujatha Lime Kiln Industry,
Rep. by its Proprietor, Gummadi Subbarao,
S/o.Pullaiah, aged about 40 years,
R/o.Kanduluru Village, Kanduluru Mandal,
Prakasam District.

....Petitioner.

AND

The Commissioner of Industries,
Government of Andhra Pradesh,
Hyderabad and others.

...Respondents.

W.P.No.14846 of 2007

Between:

Suresh Lime Industrial Cooperative
Society Ltd. rep. by its President
G.Subba Rao, S/o.Pullaiah, aged 42 years,
Business, Kanduluru Village, Tanguturu
Mandal, Prakasam District.

....Petitioner.

AND

The Commissioner of Industries,
Government of Andhra Pradesh,
Hyderabad and others.

...Respondents.

W.P.No.14857 of 2007

Between:

Suresh Lime Industrial Cooperative
Society Ltd. rep. by its President
G.Subba Rao, S/o.Pullaiah, aged 42 years,
Business, Kanduluru Village, Tanguturu
Mandal, Prakasam District.

....Petitioner.

AND

The Commissioner of Industries,
Government of Andhra Pradesh,

Hyderabad and others.

...Respondents.

THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.Nos.13569, 14846, 14857 of 2007

COMMON ORDER:

Though the writ petitioners are different, the respondents being the same and the reliefs prayed for in all these writ petitions also being the same and the factual matrix also being common, these writ petitions are being disposed of by common order.

2. Several facts had been narrated in the affidavit filed in support of the writ petition. Counter affidavits had been filed in all these writ petitions.

3. Sri Y.Subba Reddy, the learned Counsel representing the petitioners in these writ petitions would submit that respondent No.3, at the relevant point of time, without proper verification had reported as though these units are not functioning and on the strength of the same, in an arbitrary fashion, the supply of coal had been stopped. The learned Counsel had taken this Court through the respective pleadings of the parties and also the different proceedings which had been placed before this Court.

4. The learned Assistant Government Pleader for Industries and Sri Nandigam Krishna Rao, the Counsel representing the respondents would submit that on verification, respondentNo.3 found that the units were not being run and on the said report only appropriate action had been taken and absolutely there is no illegality in the impugned actions.

5. These writ petitions are filed by the respective writ petitioners praying for a writ of *Mandamus* declaring the action of respondent No.1 in directing respondent No.2 not to supply coal to the petitioner unit as illegal, arbitrary and unconstitutional and consequently, direct respondent No.1 to give direction to respondent No.2 to supply coal to the petitioner unit and pass such other suitable orders.

6. As already referred to supra, almost the same relief had been prayed for by the other writ petitioners also.

It is the case of the petitioners that these units had been established after due certification and ever since these lime units have been functioning and getting coal from respondent No.2-authorities to these units which were established at the respective place specified in the affidavit filed in support of the writ petitions.

It is also stated that these units had been registered with the Sales Tax Department and the particulars relating thereto also had been narrated. The letters issued by respondent No.2-authorities also had been specified. The proceedings, dated 18.08.2006, 10.08.2006, 19.10.2006 and also the representation, dated 30.03.2007, had been referred to. It is stated that similar proceedings are laid in all these writ petitions.

7. Separate counter affidavits had been filed in all these matters, but virtually taking the same stand.

8. In the counter affidavit of respondent No.1, it is stated that the Singareni Collieries had stopped the supply of coal to the unit on the basis of the letter by respondent No.1, Commissioner of Industries, Andhra Pradesh, Hyderabad, dated

10.08.2006, which was issued basing on the report submitted by respondent No.3, the General Manager, District Industries Centre, Ongole vide Lr.No.621/D/06, dated 06.07.2006 recommending for the stoppage of coal supply since the unit is not working and that the unit had not been produced the records for verification to the inspecting officer in spite of ample opportunities given to them. Virtually similar stand had been taken in the counter affidavits of respondent Nos.2 and 3 as well and the relevant proceedings had been also placed before this Court.

9. It is also brought to the notice of this Court that the then respondent No.3 without proper verification had made such reports and on the strength of such reports respondent Nos.1 and 2 had been carried away by such reports and in an arbitrary fashion, had stopped the supply of coal to the respective units of the petitioners. Be that as it may, this is predominantly a question of fact and Writ Court cannot express any opinion relating to the said aspect. However, the writ petitioners are asserting that they are running the respective units and without proper verification, the then respondent No.3 made such reports.

10. On the contrary, the specific stand by respondents 1 and 2 is to the effect that on such reports made by respondent No.3, the impugned action had been taken. In the light of the circumstances and also in view of the fact that there is a change of officer, let the present respondent No.3 verify whether the units are in a fit condition for being run and report the same and on the strength of such reports,

let respondent Nos.1 and 2 take appropriate action. It is brought to the notice of this Court that at the relevant point of time these units were functioning and because of non-supply of coal unfortunately, the units are not being run at present. The said

aspect also may be taken into consideration by respondent No.3. Let, respondent No.3 verify all the records and in the event of respondent No.3 being satisfied with the bona fides of these units, let appropriate reports be sent to respondent Nos.1 and 2 in this regard within a period of four weeks from this date and

let respondent Nos.1 and 2 take appropriate decisions within a period of four weeks thereafter in this regard.

11. The writ petitions are disposed of accordingly.

No order as to costs

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JUSTICE P.S.NARAYANA

Date: 30.11.2007.
Note: Issue copy
in two days.
(B/o)
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